STATE OF ARIZONA

JANICE K. BREWER
GOVERNOR

EXECUTIVE OFFICE

October 13, 2009

The Honorable Laura Yoshii
Acting Regional Administrator
U.S. Environmental Protection Agency Region IX
75 Hawthorne Street
San Francisco, California 94105

Re: EPA Docket No. EPA-R09-OAR-2009-0598 [74 Fed. Reg. 44,313 (Aug. 28, 2009)]

Dear Administrator Yoshii:

I am writing you to express my serious concerns about the possible impacts on the State of Arizona of the above-referenced docket. I cannot emphasize enough how important EPA's Best Available Retrofit Technology determination for the Navajo Generating Station (NGS) is to the citizens of Arizona. Many Arizonans rely on NGS for jobs, water and electricity, as well as economic stability in Indian country. While Arizonans are second-to-none in protecting our Grand Canyon, it must be done in a reasonable way to achieve real environmental gains in a cost-effective manner. Thus, I write to urge that the EPA not ignore diverse but interrelated climate needs unique to Arizona and its people.

RELIANCE ON NGS IS BROAD AND INTERCONNECTED

Arizona stakeholders with interests in this issue include electricity transmission reliability organizations; consumers of NGS-generated electricity; municipal water providers, and other agricultural, business, and residential consumers who depend on NGS power for cost-effective provision of water supplies through in the federally authorized Central Arizona Project. Equally important are the Native American tribes in Arizona who depend on the jobs and related coal royalties as well as the low cost power generated by NGS to deliver water to their communities.

The ANPR asks for comments on the Best Available Retrofit Technology (BART) that should be used to control nitrogen oxide (NOx) emissions at NGS, as well as for comments on the factors that should be considered by EPA in determining BART for NGS. As currently structured, the rulemaking process does not appear to be addressing the critical role that NGS plays in water delivery in Arizona or in the economic

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sustainability of the Navajo and Hopi Reservations. These factors must be taken into consideration in the forthcoming proposed BART rule if EPA is to reach a fair and balanced result on the issues at stake for the State of Arizona.

Furthermore, it is also my understanding that little to no consultation has occurred with the affected Tribes in this matter. This is in direct contradiction to your policies on tribal consultation. To that point, not only are the Navajo Nation and Hopi Tribe directly affected, but also affected are the Arizona tribes that have or expect to have Indian water rights settlements, and that depend on Central Arizona Project water to meet their water needs. You have received a request from the Chairman of the U.S. House of Representatives Natural Resources Committee to convene face to face meetings with the stakeholders prior to any decision. I endorse that recommendation.

NGS POWERS THE CENTRAL ARIZONA PROJECT—AN ARIZONA LIFEBLOOD

NGS is essentially the sole source of power for the Central Arizona Project (CAP). The CAP is a massive water delivery project constructed by the United States Bureau of Reclamation under the authority of the Colorado River Basin Project Act of 1968. It is operated by the Central Arizona Water Conservation District (CAWCD) to enable Arizona to make full use of its Colorado River entitlement. In 1964, the United States Supreme Court confirmed Arizona's right to 2.8 million acre-feet of Colorado River water annually. Until construction of the CAP, however, Arizona had no practical means of putting its full Colorado River entitlement to use, because it lacked a delivery system capable of transporting water from the Colorado River to the rapidly growing regions of central and southern Arizona.

The CAP diverts Colorado River water from Lake Havasu, on the Colorado River, and transports it across the arid desert to central and southern Arizona by means of a 336-mile long water conveyance system that includes 15 pumping plants, concrete-lined canals, inverted siphons, tunnels, pipelines and a regulatory storage reservoir. Because CAP's service area is located at significantly higher elevations than the Colorado River, a large pump lift of about 3,000 feet is required to make deliveries of CAP water to water users. As a result, CAP uses about 2.8 million megawatt hours of energy to pump about 1.6 million acre-feet of water each year from the Colorado River for delivery to cities, towns, tribal communities, irrigation districts, and private water companies throughout CAWCD's three-county service area. CAP is the largest single source of renewable water supplies in the State of Arizona and the largest single end-user of power in the State.

As Congress intended, the importation of Colorado River water delivered through the CAP has reduced dependence on dwindling groundwater resources by providing a stable, renewable supply of water that, on a statewide basis, currently meets over 20% of Arizona's total water demands. Within CAWCD's service area, which encompasses about 80 percent of the State's water users and taxpayers, CAP water meets about 50% of the municipal demand, including 45% of the City of Phoenix's total water demand. By

2020, CAP water will meet about 80% of the City of Tucson's water demand. CAP water is also a significant source of water for tribal communities within Arizona: 47% of the total CAP supply is dedicated to tribal use.

The Colorado River Basin Project Act of 1968 authorized the United States to participate in a coal-fired power plant to provide power for CAP pumping as an alternative to building additional dams on the Colorado River. Construction of NGS was the result of an environmental compromise brokered by then Secretary of the Interior Stewart Udall. The legislative history of the Basin Project Act makes clear that the United States' participation in NGS was specifically anticipated by Congress in lieu of constructing additional dams in the Grand Canyon to meet CAP's power needs. The United States Bureau of Reclamation acquired a 24.3% entitlement to the output from NGS for CAP, the single largest share held by any NGS participant.

In addition, as authorized specifically by Congress, NGS power not needed for CAP pumping is sold to help repay the construction costs of the CAP and fund the costs of Indian water rights settlements in Arizona. Currently, revenues from the sale of surplus NGS power contribute about $22 million per year toward CAWCD's $57 million annual repayment obligation for the CAP. Since enactment of the Arizona Water Rights Settlement Act of 2004, revenues from surplus NGS power sales are also used to help fund the costs of Indian water rights settlements in Arizona. In the future, revenues from the sale of surplus NGS power are expected to contribute $50 million or more per year toward CAP repayment and Indian water rights settlements.

TRIBAL REVENUE AND EMPLOYMENT DEPEND ON NGS

The NGS is critical not only to CAP operations and the ability of the CAP to meet its statutory purposes, but is also critical to the economic well being of the Navajo Nation and the Hopi Tribe. The Navajo Nation and the Hopi Tribe have long endured economic and living conditions considerably worse than those of non-Tribal citizens of the United States and the State of Arizona. In 2003, for example, the unemployment rates for the Navajo and Hopi were eight to twelve times higher than those of the United States and the State of Arizona, reaching 51 percent for the Navajo and 62 percent for the Hopi. In contrast, the unemployment rates for the United States and Arizona as a whole were 6 percent and 5.2 percent, respectively. Moreover, Navajo and Hopi unemployment data show deterioration in employment opportunities over the last decade.

Median household income on the Navajo and Hopi reservations also lags significantly behind household income in Arizona and the United States. According to the 2000 Census, the median income of households on the Navajo Reservation was $18,900 per year, and $21,300 per year on the Hopi reservation. For the United States as a whole, median household income was $41,900 per year, while for Arizona the median household income was approximately $40,500 per year.

The 2000 Census also revealed that over 43 percent of the Navajo population and over 45 percent of the Hopi population lives below the poverty line. By comparison, less than 10 percent of Arizonans and a little over 9 percent of the United States population as a whole live below the poverty line.

In the face of such economic disadvantage, the Navajo Generating Station represents a critical source of employment and revenue for tribes and their people. The Kayenta Coal Mine, which supplies coal for the NGS, is another critical source of employment and revenue for the Navajo Nation and an important source of revenue for the Hopi Tribe. The Navajo Generating Station employs 545 full-time employees, almost 80 percent of whom are Navajo, and the Kayenta Mine employs another 422 tribal members. The plant and the mine are also a significant source of revenue, in the form of royalties and other payments, for the Navajo Nation and the Hopi Tribe. In 2009, the station and the mine are expected to contribute almost $140 million in revenue and wages to the Navajo Nation and its tribal members. Payments to the Hopi Tribe will total about $12 million in 2009. The revenue received by the Hopi Tribe from coal sales makes up the bulk of the Tribe's funds for governmental operations. These dollars provide employment for hundreds of Hopi.

COSTLY ALTERNATIVE TECHNOLOGY OFFERS MINIMAL BENEFITS AND POSSIBLE RISKS

The NGS participants have, to date, voluntarily installed state-of-the art controls for sulfur dioxide emissions and are achieving high levels of particulate emissions control. NGS is the only plant to have had such controls installed exclusively for visibility purposes. At this very moment, the NGS participants are voluntarily installing low-NOx combustion technology, at a cost of over $40 million, to reduce nitrogen oxide emissions to levels that are even lower than the applicable presumptive BART limit. Retrofit of all three units with this technology will be completed by 2011.

As required by the Clean Air Act and EPA's own BART regulations, the approach to determining the level of emissions controls that is necessary at NGS should account not only for visibility improvements to be achieved within adjacent Class I areas but also take into account the economic importance of NGS to the cost effective delivery of essential water supplies and to the economic well being of the Navajo Nation, the Hopi Tribe, and other tribes with current and future water settlements. Alternative technologies that could be implemented are estimated to cost 10 times more than the technology currently being installed at NGS, with only minimal additional reduction in NOx emissions. NGS probably cannot economically sustain costs of that magnitude, and may need to cease operations. Given the information I have provided herein, your decision could have devastating economic consequences unless it addresses, in equal measure, the need to assure the long-term operation of NGS with the need to protect visibility in Class I areas.

The Arizona Department of Environmental Quality advises me that aggressive application of low NOx combustion controls will result in the removal of about 26,000 tons of NOx from the NGS emissions at an average cost effectiveness of between $168

and $184 per ton. In contrast, installation of Selective Catalytic Reduction (SCR) controls will only achieve an additional 20,000 tons of NOX reduction (46,000 tons per year total) and will do so at an average cost effectiveness of about $1,833 to $2,419 per ton. The difference in cost is significant and we in Arizona believe it is prohibitively expensive to install SCR to achieve only 50% more emissions reductions at ten times the average cost Moreover, the plan to transport 31 tons of anhydrous ammonia via approximately two tanker trucks, up remote, rural roads each day threatens the health, safety, and welfare of local communities while increasing carbon emissions and thereby negating many of the Clean Air improvements which you presumably seek.

In conclusion, I urge that the EPA work with other federal entities alongside Arizona's stakeholders to carefully balance the risks and rewards associated with this climate initiative. It is my hope that you will thoughtfully and carefully weigh other critical elements of the climate debate: economic feasibility, sustainability, quality of life, and growth. Without water, Arizona's desert communities cannot survive. Water and power are interrelated in the West. Tribal communities are important partners for economic growth throughout the Southwest and simply cannot create economies without power or water resources to support their development. When all relevant factors are considered, it becomes clear that the BART plan as currently contemplated is not good environmental policy and does little to advance a sustainable climate initiative. The responsible solution will balance the need for meeting visibility goals of the Clean Air Act with the need to provide vitally needed water supplies and protect critical sources of revenue and employment for stakeholders throughout Arizona.

Thank you for your consideration of these comments.

Sincerely,

Janice K. Brewer

Janice K. Brewer
Governor
State of Arizona

Cc:
The Honorable Ken Salazar, Secretary of Interior
The Honorable Larry Echo Hawk, Assistant Secretary for Indian Affairs
Lisa Jackson, Environmental Protection Agency Administrator
Jon Kyl, U.S. Senate, Arizona
John McCain, U.S. Senate, Arizona
Ann Kirkpatrick, Member of Congress, Arizona District 1
Trent Franks, Member of Congress, Arizona District 2
Raul Grijalva, Member of Congress, Arizona District 7